IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 19TH DECEMBER 2006 / 28TH AGRAHAYANA 1928

OP.No. 7592 of 2003(D)

PETITIONER:

A.P.XAVIER, S/O.PAILI, AGED 44, ARACKATHAZHATHU HOUSE, UDAYAMPEROOR, ERNAKULAM, REPRESENTED BY POWER OF ATTORNEY HOLDER TRESA XAVIER, ARACKATHAZHATHU HOUSE, --- DO --- --- DO ---

BY ADV. SRI.BECHU KURIAN THOMAS

RESPONDENTS:
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1. STATE OF KERALA, REPRESENTED BY DISTRICT COLLECTOR ERNAKULAM.

2. THE TAHASILDAR (R.R), KANAYANNUR TALUK, ERNAKULAM.

3. VILLAGE OFFICER, MANAKUNNAM VILLAGE, ERNAKULAM.

4. VIMALA SOMAN, W/O. SOMAN, MUNDAMPALLYIL HOUSE, KANJIRAPPALLY P.O., KANJIRAPPALLY,KOTTAYAM.

BY ADV. SRI.PHILIP T.VARGHESE (FOR R4)
SRI.THOMAS T.VARGHESE
GOVT. PLEADER, SRI.C.K.GOVINDAN

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 19/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP NO.13292 OF 2003 IN OP NO.7592 OF 2003

DISMISSED

SD/-

19.12.2006. C.N.RAMACHANDRAN NAIR, JUDGE

APPENDIX

PETITIONER'S EXHIBITS:

EXT. P1: COPY OF THE SALE DEED NO.1299/2002 DATED 27.5.2002 EXECUTED IN FAVOUR OF THE PETITIONER.

EXT. P2: COPY OF THE APPLICATION FOR MUTATION DATED 27.5.2002.

EXT. P3: COPY OF THE ENCUMBRANCE CERTIFICATE DATED 8.5.02.

EXT. P4: COPY OF THE REVENUE RECOVERY NOTICE ISSUED TO THE 4TH RESPONDENT DATED 20.1.2003 NUMBERED AS E2.98/02-03/85.

EXT. P5: COPY OF THE PETITION DATED 10.2.03 SUBMITED BY THE PETITIONER TO THE 2ND RESPONDENT.

/TRUE COPY/

P.A. TO JUDGE

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C.N.RAMACHANDRAN NAIR, J.

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O.P. No.7592 of 2003

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Dated this the 19th day of December, 2006.

JUDGMENT

The petitioner is challenging recovery proceedings for recovery of arrears of sales tax and penalty due from the seller who was partner of a firm which is in arrears of sales tax. Counsel appearing for the defaulter-seller namely, the 4th respondent submitted that the tax dues do not survive after order of the Tribunal in T.A. No.505/2002 dated 25.7.2002. He has further stated that penalty levied against the firm is also set aside by the Commissioner of Commercial Taxes. In the circumstances, the 4th respondent is directed to obtain a certificate from the Sales Tax Officer stating that there is no arrears of sales tax due from the firm of which she was a partner and furnish the same to the petitioner without delay. The Sales Tax Officer will verify the firm's records and issue certificate to the 4th respondent on production of copy of this judgment. If a certificate of no liability is issued by the Sales Tax Officer, then there will be direction to the third respondent to effect mutation of property in petitioner's name, if otherwise petitioner is entitled for mutation.

The O.P. is disposed of as above.

C.N.RAMACHANDRAN NAIR
Judge

pms